

**ADMINISTRATIVE
MANUAL
STATE OPERATED PROGRAMS**

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF EDUCATION
(Revised July 2016)**

Preface.....	1
I. Legislation, Rules, and Regulations	1
A. State.....	1
1. Regulations.....	1
2. Annual Plan.....	2
3. Instructional Programs	3
B. Regulation Governing State Operated Programs	3
1. Public Law 108-446.	3
2. IDEIA.....	3
3. ESSA.....	3
4. Section 504.....	3
II. Functions of Agencies	4
A. Virginia Department of Education (VDOE)	4
B. Facilities with State Operated Programs	4
C. Local School Divisions (<i>Code of Virginia</i> 22.1-209.2).....	5
D. State Operated Programs (SOPs)	5
1. Mission Statement.....	5
2. Educational Objectives.....	5
3. Achievement and Assessment of Objectives	5
4. Program Description	6
5. Provision of Services.....	6
III. Conditions of Employment	9
A. Certification/Endorsement	9
B. Contracts.....	9
C. Personnel Actions.....	9
D. Dismissal	9
E. Evaluation	10
F. Grievance Procedure	10
G. Hours and Lengths of Contracts	10
H. Inclement Weather.....	10
I. In-services/Staff Development/Conferences	10
J. Lesson Plans.....	11
K. Personnel Policies.....	11
L. Reduction in Force (RIF)	12

M. Staff/Student Relationships	12
1. Financial Transactions.....	12
2. Gift Giving and Receiving	12
3. Personal Relationships	12
4. Reporting Suspected Abuse, Neglect, and Misconduct	12
5. Staff Visitation and Outside Activities.....	13
N. Student-Teacher Ratios	13
O. Travel	13
P. Use of Substitutes	13
IV. Section 504	13
V. General Student-Related Policies.....	13
A. Students Who Require a Regular Program of Studies	13
B. McKinney-Vento Act	14
C. Student Home Language Survey	14
D. Post Secondary Services.....	15
E. Minute of Silence.....	15
F. Network/Internet Acceptable Use.....	15
G. Social Media.....	16
H. High School Credit.....	17
I. State Testing Identifiers (STI).....	17
J. Virginia Assessment Program.....	17
VI. Record Keeping and Confidentiality of Information.....	17
A. Student Enrollment.....	17
B. Education Records/Student Files.....	18
1. Parent and Eligible Student Rights.....	18
2. Inspection and Review	19
3. Disclosure.....	19
4. Fees.....	20
5. Amendment	20
6. Hearings	20
7. Consent.....	21
8. Safeguards	21
9. Destruction	22
10. Electronic Mail and Signature.....	22

11. Audio and Video Recording.....	22
C. Inventories	23
D. Reports	23
1. SOP Programs	23
2. VDOE.....	23
Appendix I	24
Children's Hospital of Richmond.....	24

Preface - In this manual State Operated Programs (SOPs) refer to education programs in specialized children's hospitals, mental health facilities, and regional and local juvenile detention homes. These programs are supervised by the Virginia Department of Education (VDOE). As support services in these facilities, the SOPs' mission is to provide appropriate educational services to enrolled students. Education is tailored to meet individual students' needs. This manual incorporates the mandates of P.L. 108-446, the *Individuals with Disabilities Education Improvement Act* (IDEA 2004); its federal implementing regulations; and the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (January 2010); the *Every Student Succeeds Act* (ESSA, 2015) and the *Rehabilitation Act of 1973*. It is the responsibility of each and every employee in an SOP to read and review this manual yearly.

I. Legislation, Rules, and Regulations

A. State

1. **Regulations** - As required by the provisions of IDEA 2004 and its implementing regulations, the VDOE must ensure the federal government that all persons with disabilities, ages two to 21, inclusive, have available a free appropriate public education (*Code of Virginia* 22.1-214). The Commonwealth's provisions are detailed in the Virginia Regulations.

Section 22.1-7 of the *Code of Virginia* addresses the educational responsibility for children in residence or in the custody of state agencies. "Each state board, agency, and institution having children in residence or in custody shall provide education and training to such children which are at least comparable to that which would be provided to such children in the public school system."

The following assurances must be guaranteed under the requirements of the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (8 VAC 20-81-10 et seq.)

- a. A free appropriate public education (FAPE) will be available for each child with disabilities, ages two to 21, inclusive, residing in the facility.
- b. All children, ages two to 21, inclusive, residing in the facility who are disabled and need special education and related services are identified, located, evaluated, and placed in an appropriate educational program.
- c. Children with disabilities and their parents are guaranteed procedural safeguards in the process of identification, evaluation, or educational placement or the provision of a FAPE.
- d. To the maximum extent appropriate, children with disabilities will be educated with children who are not disabled.
- e. Confidential records of children with disabilities shall be properly maintained.

- f. Testing and evaluative materials used for the purpose of classifying and placing children with disabilities are selected and administered so as not to be racially or culturally discriminatory.
 - g. An Individualized Education Program (IEP) will be maintained for each child with disabilities. A comprehensive system of personnel development to include the in-service training of special education instructional and support personnel, related to the needs of the children in residence, is provided.
 - h. There will be ongoing parent consultation.
 - i. Children with disabilities must be given the right of participating in the Virginia Assessment Program (VAP).
 - j. Surrogate parents are appointed, when appropriate, to act as advocates serving the educational interests of children, ages two to 21, inclusive, who are suspected of being or are determined to be disabled.
2. **Annual Plan** - Each SOP who receives federal IDEA funds will submit to the VDOE appropriate policies and procedures for the development of an annual plan. The information must include a description of the current program of special education and related services and program projections. Forms, time frames for submission, and acceptable criteria for state approval are established annually. The following are included in the plan:
- a. Educational objectives of the state board, agency, or institution are clearly stated in the program plan.
 - b. Strategies for achieving the educational objectives, including an organized system of staff development, are identified.
 - c. An assessment plan is in place for determining the extent to which objectives have been achieved.
 - d. A system of communication between education staff and other personnel, including facility staff, is in place to ensure coordination of program objectives.
 - e. A system of communication to facilitate service continuity in the transition of a child into and out of the educational program of the facility is assured.
 - f. Additional State Operated Program (SOP) requirements specified in state regulations will be met.

3. **Instructional Programs** - The instructional program must be designed to provide a continuum of program alternatives to meet the needs of each student and may include, if appropriate, the following:
 - a. instruction in basic education skills;
 - b. prevocational, vocational, and career education;
 - c. preparation for high school graduation;
 - d. affective education skills;
 - e. preparation for Graduate Equivalency Diploma (GED®) examination; [*“GED is a registered trademark of the American Council on Education and may not be used or reproduced without the express written permission of the American Council on Education.”*] and
 - f. self-help skills.

A minimum of 5½ hours per day or 27½ hours per week of instructional time is made available for each student.

B. Regulations Governing State Operated Programs

1. **Federal Public Law 108-446** - Federal Public Law 108-446 requires that a Free Appropriate Public Education (FAPE) be provided to all eligible children, ages two to 21, inclusive, with disabilities in Virginia. A Free Appropriate Education (FAPE) includes special education and related services required to meet the individual educational needs of children with disabilities and ensure that their parents are protected under due process procedures.
2. The *Individuals with Disabilities Education Improvement Act* (IDEA) 2004 and its implementing federal regulations are applicable to all SOPs.
3. The *Every Student Succeeds Act* (ESSA), 2015 reauthorizes the *Elementary and Secondary Education Act* (ESEA), 1965 and builds on the *No Child Left Behind Act*, (NCLB) 2002.
4. **Section 504** - Section 504 of the *Rehabilitation Act of 1973* provides that "no otherwise qualified handicapped individual...shall, solely by reason of his/her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." Programs operating in existing facilities must be constructed so as to be readily accessible to the disabled.

II. Functions of Agencies

A. Virginia Department of Education (VDOE) - Authorization has been granted by statute 22.1-209.2, 22.1-214.2 and 22.1-7 to the Virginia Board of Education for the establishment, operation, and supervision of State Operated Programs. State funds are provided for general education, special education, and related services in the state appropriation. The VDOE:

1. provides annual funding for SOP staff, materials and supplies, equipment, travel, and in-service training;
2. contracts with school divisions to provide for the fiscal management of the program;
3. provides direct supervision of the SOPs;
4. monitors, enforces, and provides technical assistance and consultative services in the interpretation and implementation of state and federal laws and regulations pertaining to the education of children with disabilities;
5. reviews and evaluates the SOPs' compliance with state and federal laws and regulations;
6. disseminates significant information derived from research, demonstration programs, and projects involving best instructional and behavioral strategies;
7. determines job qualifications and assists in developing job descriptions; and
8. provides input into the hiring of administrative personnel.

B. Facilities with State Operated Programs - According to the Additional Responsibilities of State Boards, Agencies, and Institutions for Education and Training of Children with Disabilities in Residence or Custody (8VAC20-81-320), specialized State Operated Programs shall provide an education program for school-age children. Specific functions include:

1. providing adequate and appropriate classroom space and a library which meets minimum educational standards that may be established by state law and all maintenance needs of this space;
2. providing fiscal management of the federal component of the SOPs, if requested; and
3. providing a procedural manual for all SOP employees who work within the facility.

C. Local School Divisions (*Code of Virginia 22.1-209.2*) - In accordance with the annual Commonwealth of Virginia contracts between the VDOE and school divisions related to services for children served in SOPs, it is the responsibility of the school division to:

1. administer the SOP budget for employee salaries, materials and supplies, equipment, travel, and in-service training;
2. employ administrative personnel, teachers, and support staff;
3. establish the general policies of personnel administration as detailed in a policy and regulations manual;
4. provide for the evaluation of instructional and administrative personnel; and
5. establish the school calendar.

D. State Operated Programs (SOPs)

1. **Vision and Mission Statement - Vision:** The SOP is a collaborative community that empowers each child academically, socially, and emotionally. **Mission:** A highly effective group of educators will provide safe, innovative, and individualized instruction to a unique group of students to encourage, support, inspire, and prepare them as confident, successful, global citizens.
2. **Educational Objectives** - The fundamental goal of public schools across the Commonwealth is to enable each student, to the full extent of his/her abilities, to develop and apply the skills that are necessary for success in school, preparation for life, and reaching his/her full potential. In keeping with the 2015 Standards of Quality articulated by the Virginia Board of Education, the Standards of Learning (SOL) form the core of the SOPs' educational programs.
3. **Achievement and Assessment of Objectives** - Students' length of stay impacts the degree of their involvement in the SOP.

Ongoing contacts with home-school personnel assist SOP staff in the planning and implementation of instruction in specific academic areas such that, to the extent of a student's abilities, skill acquisition is coordinated with that of the student's peer group and aligned with appropriate SOL instruction. The SOP personnel may make accommodations or modifications in instruction as necessary to meet the needs of individual students. Assessment strategies may include oral tests, written tests, reports, teacher observations, checklists, and/or other appropriate assessment tools. In addition, students enrolled in the SOPs participate in the Virginia Assessment Program (VAP) as appropriate. The performance of individual students on these

assessments measures their academic achievement and functional performance and serves as indicators of achievement of program objectives.

An organized program of professional development also contributes to the achievement of educational objectives. New requirements and procedures that impact program effectiveness are addressed through various offerings, including training to increase the proficiency of SOP staff in the administration and interpretation of standardized tests; training to enhance the knowledge, skills, abilities, and performance of SOP staff, i.e., presentations on current content and teaching practices in core curriculum areas; and programs focused on the acquisition and dissemination of significant knowledge gained through educational research and other sources.

4. **Program Description** - Criteria for admission to and discharge from these facilities are not established by educational authority nor are such facilities instituted for elementary and secondary education purposes. Children and youth are admitted to these facilities for various lengths of time and with various instructional needs and abilities. The instructional program for each child and youth will be tailored to fit his/her individual needs. Education staff assigned to SOPs will work collaboratively with local school authorities of each student's home school division in an effort to support an effective educational transition. The SOP staff will provide a comparable education to the extent possible within the facility. Credits, graduation, and diplomas are awarded by the school division of legal residence.
5. **Provision of Services** - The SOPs provide a full educational opportunity goal to children with disabilities, from two through 21 and for general education students grades K-12. Appropriate services are provided across the Commonwealth according to the age and needs of the students. For specific provision of services exception see appendices.
 - a. **Preschool** - Daily individual and/or group preschool sessions are provided for children two years through kindergarten age. These programs focus on the major areas of child development: language/communication skills, fine and gross motor skills, self-help skills, and cognitive and social development.
 - b. **School Age** - The SOP contacts school personnel to inform them of the child's enrollment. Ongoing contact with the school is maintained during the period of enrollment.

1) Home-School Communication

- a) Ongoing contact with the home school is maintained in order to determine the appropriate grade level for instruction; obtain additional assignments, if needed; keep the child on track with peers; and ascertain the child's progress in relation to his/her class.
- b) The program administers report cards on the same schedule as the employing school division.
- c) Transfer summaries are sent to the receiving LEA within two business days after the student's release from the SOP unless there are extenuating circumstances.

2) Individual and Group Instruction

- a) The teacher may assist the child in completing assignments from his/her home school if the stay is short term (three days or less).
- b) For those students expected to stay longer, the child will be assigned a school schedule that closely follows the one that the child was assigned from the home school division.
- c) For a child identified as needing special education and related services prior to admission, the appropriate education program staff requests the home school IEP. Upon its receipt, the education leader or designee is notified so that a meeting can be scheduled to modify and implement the child's IEP in a timely manner.
- d) When appropriate, the teacher discusses the instructional program with the student and encourages student participation in program planning.
- e) Programs for remediation of academic problems are designed when necessary.
- f) Tutors are secured, as needed, for students taking advanced-level courses; otherwise, curriculum options are comparable to those provided in public schools.

- c. School Age: Long-Term at Children's Hospital of Richmond at MCV (8VAC20-81-30) - This term refers to an admission whereby children are placed long-term in an SOP for non-educational reasons. For these children, the individual child's local educational agency (LEA) of residence continues to be responsible for the provision of a FAPE in the least restrictive environment (LRE) according to (8VAC20-81-30). The SOP is required to

notify the appropriate LEA of the admission and status of long-term students as well as any meetings associated with the child receiving a FAPE. (See Appendix I)

- d. Expressive Arts - Art and music therapists work for the SOP within the facility in which the program resides. They are not required to have endorsements in art or music education but must hold certification by their licensing board or be working toward certification. As faculty members of public school programs, art and music therapists are required to offer a free education to all students.

Therefore, art and music enrichment through therapeutic means is available to all students. Students needing individual counseling will be referred to the appropriate facility staff. If a student is taking an art or music class for credit, the therapist may work with the home school staff and/or facility teachers to ensure that the necessary curriculum is covered and graded.

Art and music therapists who provide services to students in SOPs will use the SOP curriculum that is provided.

Additionally, art and music therapists will be actively engaged in utilizing creative processes to assist students in reaching academic, interpersonal, and transitional goals specifically related to student achievement and adjustment to the academic setting. In addition, therapists will parallel teacher routines for planning, for working with students, and by being evaluated on performance by the administrator in the school setting. Students will gain skills necessary for personal and academic success supported by evidenced-based best practice from expressive therapists.

- e. Other Services - The following services also assist in providing a full educational opportunity for all school-age children admitted to SOPs.
 - 1) Career education objectives are infused into the curriculum for students, ages two through 21, inclusive.
 - 2) Where physical education services are offered, children with disabilities are afforded physical education, specially designed if necessary, that allows them to participate with age-appropriate peers as part of their FAPE entitlement.
 - 3) All children have access to the nonacademic activities available during their enrollment. These may include special assemblies, community related projects, or other special activities related to the school. Teachers arrange and help to supervise

extracurricular programs designed to stimulate and involve students.

III. Conditions of Employment

- A. Certification/Endorsement** - Each state board, agency, or institution shall assign personnel to the educational program as follows: administrative, supervisory, instructional, support, and ancillary personnel holding valid professional licenses, certificates, and endorsements as appropriate in the area of assignment (national standards may apply in the absence of state licensure or certification requirements).

It follows that the SOPs shall ensure that special education personnel, including paraprofessionals, have the content knowledge and skills to serve children with disabilities. To achieve this objective, the SOPs take measurable steps to recruit, hire, train, and retain qualified personnel to provide special education and related services to students with disabilities. It follows that under the ESSA Act of 2015, all instructional assistants must be qualified paraprofessionals. This standard requires that all instructional assistants be high school graduates and have passed the ParaPro Assessment.

Additional education personnel, such as occupational therapists, physical therapists, and interpreters for the deaf, hired to provide required related services, must also hold valid professional licenses, certificates, and endorsements.

- B. Contracts** - Teaching contracts shall be drawn in compliance with the laws of the Commonwealth of Virginia and requirements of the Virginia Board of Education. They may include any special provisions approved by the employing school board in conjunction with the annual memoranda of understanding between school divisions and the VDOE.
- C. Personnel Actions** - Any personnel actions that include accusations made by a student against a teacher will be investigated in conjunction with the facility.
- D. Dismissal** - According to the *Code of Virginia* (22.1-307), any teacher may be dismissed or placed on probation for incompetency, immorality, noncompliance, conviction of a felony, or other good and just cause. Local policies may specifically delineate other causes for dismissal. Appeal and notification procedures are determined locally.

- E. Evaluation** - Per the Commonwealth of Virginia Board of Education Guidelines, each school division is required to establish and maintain procedures for the evaluation of all employees. The purpose of such evaluation and assistance shall be to raise the quality of instruction and educational services and aid the individual employee to grow and improve. Since SOP professional staff and paraprofessionals are employed through the school divisions, evaluation shall be a cooperative and continuing process with formal appraisal periodically, according to the procedures delineated by the school division. Assistance will be provided by VDOE upon request.
- F. Grievance Procedure** – The SOP personnel will follow the grievance procedure of the employing school division. The full text of the grievance procedure can be found in the school board policy manual of the employing school division.
- G. Hours and Lengths of Contracts** – The SOP employees adhere to the length of the contractual day and hours established by the school division. The VDOE reserves the right to adjust the school calendar and contracts to accommodate the needs of the state department and the facility in which an SOP is located.
- H. Inclement Weather** - All staff employed by the school division and assigned to an SOP shall follow the inclement weather procedure developed by the employing school division. If there is an SOP meeting or training scheduled and the employing school division is closed, the SOP staff member should adhere to the school division's closure.
- I. In-services/Staff Development/Conferences** - For SOP personnel, this policy supersedes all local school division policies regarding attendance at in-services and conferences.

Each SOP, in conjunction with VDOE, shall provide an ongoing staff development program for general and special education instructional personnel as well as support personnel. Accordingly, the SOPs plan, implement, and evaluate in-service training aimed at addressing the needs of children in residence and increasing student achievement. It follows that staff are expected to attend those in-services organized by the SOP or the VDOE for SOP personnel. All VDOE sponsored staff development workshops are mandatory for SOP staff.

The SOPs encourage the participation of staff in job-related professional programs and activities whose purposes support the improvement of the education program. If schedules allow, SOP personnel have an opportunity to participate in workshops or in-services offered by the school division.

Opportunities to attend other in-services and conferences focused on job-related topics are made available to individual staff upon request. Recognizing that the mission of the SOPs is to provide direct service to children and that resources are limited, a maximum of two individuals from any one SOP may attend a particular

in-service or conference. Likewise, each staff member may be approved to attend one in-service or conference per school year. Any exceptions must be approved by the education leader and VDOE.

The SOP staff must follow the travel regulations of the local LEA when state money is involved. For federal funds that support travel, state rates and restrictions apply. Any exceptions must be pre-approved by the local LEA and VDOE. While leave time may be granted to attend a conference or in-service, such approval in no way obligates the SOP or VDOE to defray the costs of attendance and participation. In many cases it may be necessary for the individual participant to pay for all or part of the expenses.

No SOP funds will be used for out-of-state conferences for SOP teachers, with the exception of the Washington, D.C. area. Permission to attend a conference in Washington, D.C. or the surrounding area must be granted by VDOE before the participant registers and/or attends the conference. Requests for out-of-state conference travel for SOP administrators will be reviewed by VDOE on a case by case basis.

Before submitting a proposal to present at a conference, an SOP teacher must get prior permission from the education leader. If the proposal is accepted, the final presentation must be approved, in advance, by the education leader. The leader will review the presentation to ensure accuracy of information and that confidentiality of student information is maintained. Any SOP education leader who desires to submit a proposal to present at a conference must obtain permission from the VDOE before submitting the proposal. While individuals planning to make presentations at in-services or conferences will be given priority, it should be understood that they will not automatically be granted permission to attend.

Documentation of SOP staff development is to be kept in the education leader's or designee's office. The documentation should reflect any staff development activities provided by the leader, school division, or SOP. It is required that all staff share with their site peers the acquired learning from each conference attended. These sharing sessions should also be documented.

- J. Lesson Plans** - All teachers are expected to have daily lesson plans. They should include, but are not limited to, curriculum objectives, activities, and materials as they relate to the Standards of Learning (SOL) and/or the IEP. The education leader or designee will regularly monitor lesson plans throughout the year to assure comparability to LEA curriculum and IEP implementation.
- K. Personnel Policies** - All personnel employed by LEAs and assigned to SOPs are responsible for adhering to all rules, regulations, and statutes pertaining to facility policies and to those of the LEA unless otherwise stated in this manual.

The SOP employees are expected to abide by the specific rules and regulations of the facility relative to student interaction, as outlined in the facility's personnel procedure manual. (Exception: During an investigation the education staff person may be temporarily reassigned to a position outside of the facility by the LEA and/or the Virginia Department of Education in lieu of suspension until the investigation is completed.)

L. Reduction in Force (RIF) - The termination or reduction of state funding for the SOPs may entitle the school division to terminate the contracts of administrative and teaching personnel for insufficient funds, subject to the specific agreement made between the school board and the employee of the school board. Furthermore, the termination or reduction of local funding for the school division may not entitle the school board to terminate the contracts of SOP personnel, subject to the specific agreement made between the school board and the employee of the school board.

M. Staff/Student Relationships - Staff/student relationships are to be professional, not personal.

1. **Financial Transactions** - Employees are prohibited from selling items to students. Employees may only buy goods from students as a part of an SOP or facility-approved activity, such as an arts and crafts show or bake sale. It is prohibited for a staff member to gamble with, bet with, borrow from, or loan money to a student.
2. **Gift Giving and Receiving** - Gifts to students are prohibited. Gifts from the student or family must be reported to the education leader to determine what action should be taken. The receipt of money from a student or family is prohibited. Gifts of material value should be donated to the volunteer services.
3. **Personal Relationships** - Developing relationships that are not considered professional with students and/or parents is prohibited. Phone or e-mail contact with parents/guardians shall be during school hours. Phone, e-mail, and social media contacts with current or former students are prohibited.

Staff members shall address students with courtesy and respect. When a student asks a question or makes requests that staff cannot answer or grant within their job description, they shall refer the student to the education leader or the facility staff.

4. **Reporting Suspected Abuse, Neglect, and Misconduct** - In cases of observed or suspected physical abuse, neglect, and misconduct in which a student or family member is involved, all incidents should be reported to the education leader and site administrator. Likewise, complaints from students or family made to an SOP staff member should be reported to the education leader who in turn shall inform the facility

staff. If an investigation is warranted the investigation will be conducted in coordination with the facility and the employing school division.

5. **Staff Visitation and Outside Activities** - During off-work hours, SOP staff are prohibited from engaging with students in any visitation or activities that are not part of an established or special programmatic function.

N. Student-Teacher Ratios - All facilities are required to staff the educational programs as specified by state regulations. With regard to instructional personnel, the SOPs adhere to established student-teacher ratios for the types of children with disabilities being served. Both general and special education students receive instruction in the SOPs.

O. Travel - All approved SOP travel is reimbursed according to local school division policy unless federal grant money is being used to underwrite the travel. In cases where federal monies are used, the state reimbursement rate must be followed.

P. Use of Substitutes - Consistency in treatment and delivery of educational services for students residing in state facilities are major objectives for SOPs. In light of the nature of SOP settings and the SOP staff's familiarity with the programs and students, classroom coverage in most cases of short-term absences and leaves will be handled by the SOP staff if staffing and student census allows. Education personnel shall follow their SOP policy in regard to notification of absences/leaves. Substitutes will be used in cases of long-term (a week or more) absences/leaves or possible multiple absences within the school program. The use of substitutes in the above situations will be at the discretion of the SOP administrator. Exceptions to this policy will be reviewed by the SOP administrator and the Virginia Department of Education.

IV. Section 504: Applicable regulations can be found at this link:

http://www.doe.virginia.gov/special_ed/tech_asst_prof_dev/section_504_implementation_va.pdf

V. General Student-Related Policies

A. Students Who Require a General Program of Studies - When students who are enrolled in general academic programs in elementary or secondary schools transfer into the SOP, they are afforded similar or modified educational opportunities. Upon a student's enrollment, it is the responsibility of the SOP staff to contact appropriate home-school personnel to request information about the student's academic program.

When initiating an academic schedule for these students, modifications in the academic program may be required because of the student's psychological or medical status. If modifications are necessary, the student's parent/guardian, LEA personnel, and the student, when appropriate, are informed of the need and involved in the decision making. Educational staff assigned to the facility work closely with personnel from each student's home school in an effort to ensure a smooth transition between the SOP and the school. When the student is released/discharged from the facility, correspondence is sent to appropriate LEA personnel and students' parent/guardian. The release/discharge correspondence provides data regarding attendance, grades, and other pertinent school-related information.

- B. *McKinney-Vento Act*** - The SOPs are committed to educating children and youth, including those who are considered to be homeless as defined by the *McKinney-Vento Act*. All students, including those identified as homeless, are enrolled according to SOP policy and are not refused or delayed enrollment due to a lack of educational records and/or immunization records. It should be noted, however, that students who are enrolled in an SOP are in residence and, therefore, cannot attend a school of origin as specified in the *McKinney-Vento Act*.

Although unique in its role related to the *McKinney-Vento Act*, the SOPs recognize the impact of homelessness on students and remain committed to providing a full and equal opportunity for academic success and achievement to all students.

- C. *Student Home Language Survey*** - Under provisions of the *Civil Rights Act of 1964*, each student's dominant language must be identified. This information is essential in order for schools to provide meaningful instruction. It follows that a Home Language Survey must be completed for all students.

The SOP staff should review the Home Language Survey and records received from the student's school. If the student has previously been identified as Limited English Proficient (LEP) or Formerly Limited English Proficient (FLEP), the SOP staff should obtain information about the services and accommodations the student currently receives.

If the student's first language is not English and the student has never been assessed to determine if he/she is LEP, SOP staff should administer the WIDA Access Placement Test (W-APT)[™]. If the student's first language is not English and records indicate the student previously received English as a Second Language services (ESL), and was dismissed from ESL services, SOP staff do not have to administer the W-APT[™]. *SEE ELL manual for further instructions.

If a student's LEP status is unknown or cannot be determined by the results of the W-APT[™], the student should be classified as Level 1 for reporting purposes.

D. Post-secondary Services - These services are offered in SOP detention home education programs according to the Memorandum of Understanding developed at each site and on file at VDOE.

E. Minute of Silence - In order that the right of every student to the free exercise of religion be guaranteed within the schools and that the freedom of each individual student be subject to the least possible pressure from the Commonwealth either to engage in or refrain from religious observation on school grounds, SOPs shall establish the daily observance of one minute of silence.

Each SOP teacher shall daily observe the one-minute period of silence during his/her first class. The teacher shall take care that students remain silent and make no distracting display to the end that each student may, in the exercise of his/her individual choice, meditate, pray, or engage in any other silent activity which does not interfere with, distract, or impede other students in the like exercise of individual choice.

F. Network/Internet Acceptable Use – The SOP computers are intended to facilitate learning as well as personal and professional growth. The use of technology allows students to learn new skills, do homework, explore career development, conduct research, communicate electronically, and have Internet accessibility. It is the responsibility of SOP teachers to review or orient students to all aspects of security and ethics involved in using the Internet, per the State Operated Program Network/Internet Acceptable Use Policy or school division policy. It follows that eligible students under the age of 18 must sign this policy indicating that they understand its contents and agree to abide by its guidelines before accessing the Internet.

Access to internet resources is available with the understanding that some material may be inaccurate. Use of the Internet for educational purposes may include research, career development, extracurricular activities, and electronic communication. All users are expected to demonstrate ethical behavior; polite, civil communication; individual integrity and honesty; and respect for self and others and their confidentiality. The use of the Internet during work hours should be consistent with the educational mission of SOPs.

Unacceptable use of internet resources is prohibited. Unacceptable use of internet resources includes using the network for illegal, inappropriate, obscene, or harmful purposes or in support of such activities; using inappropriate material or profane, abusive, or impolite language to communicate; accessing materials that are not in line with the rules of school behavior; infringing upon copyright laws, software piracy, or plagiarism; using the network for commercial use or monetary gain; and engaging in any activity that is harmful to the institution's computers. Harmful activity includes creation or propagation of computer viruses; corrupting, copying, or manipulating computer data (hacking); disrupting the use of the

network by other users; mass mailing (spamming); sharing or exchanging passwords; and purchasing products, information, goods, or services.

Any observation of violations or other suspected incidents of noncompliance are to be reported to the education leader immediately. Violation of the guidelines as articulated in the State Operated Program Network/Internet Acceptable Use Policy or local school division policy will result in appropriate disciplinary action, to be determined by the individual SOP or school division.

G. Social Media – All SOPs are committed to providing a safe and secure learning and working environment for students and staff and encourage positive relationships between them. There is, however, a distinction between being supportive of students and the real or perceived breach of confidentiality or professional boundaries. All SOP staff are expected to follow the appropriate school division policies when using social media as a form of communication. The purpose of these policies is to provide guidelines for social media communications between employees, students, and parents; to prevent unauthorized access and other inappropriate activities by SOP users online; to prevent unauthorized disclosure of or access to sensitive information, and to comply with the *Children's Internet Protection Act* (CIPA) and/ other applicable laws. While it is recognized that during non-work hours employees and/or students may participate in online social media, blogs, and other online tools, SOP staff members should keep in mind that information produced, shared, and retrieved may be subject to school division policies and is a reflection of the school community.

Social media has many educational benefits, but when social media postings violate the law or school division policies or create a substantial disruption to the school/work environment, the education leader may have an obligation to respond and take appropriate action, including but not limited to investigation, removal of posts, discipline, and/or referral to law enforcement. Under certain circumstances, school divisions have jurisdiction to discipline employees who violate rules of appropriate conduct, which includes, but is not limited to, the use of social networking sites during or outside of work hours. Additionally, employing school divisions may not be able to protect or represent employees who incur legal action from a second party in response to the employee's behavior in a social networking site. In response to violations of the rules of appropriate conduct, school divisions may also restrict access to students and employees.

All SOP teachers and administrators cannot communicate with a student or his or her parent/guardian via social media. Education employees also cannot mention, discuss, or reference the State Board of Education, their employing school division, individual schools, programs, or teams on social networking sites unless they state that such communication is a personal opinion and not representative of the views of the district or the Board of Education. It should be understood that

education personnel may be sued by other employees, parents, or other individuals who consider an employee's social media communication to be defamatory, pornographic, proprietary, harassing, libelous, or "creating a hostile work environment."

- H. High School Credit** - Credit should be granted toward promotion and graduation from a secondary school for subjects taught by a teacher endorsed in a specific area of education or related subject for which he/she is employed according to 8 VAC 20-131-60. According to the Standards for Accrediting Schools in Virginia, Revised 2015, the standard unit of credit means "a verified unit of credit for graduation shall be based on a minimum of 140 clock hours of instruction, successful completion of the requirements of the course, and the achievement by the student of a passing score on the end-of-course SOL test for that course."

Credit may be earned in increments of less than whole units and may be recorded as such depending on local school division policy. Under no circumstances shall a unit of credit be awarded for completion of a course that is the same, or essentially the same, as a course for which the student already has received credit.

The LEA Superintendent, not the SOP, is responsible for granting credit.

- I. State Testing Identifiers (STI)** - All students enrolled in Virginia schools are assigned a ten-digit State Testing Identifier. It is the responsibility of the SOP to obtain student identification numbers from student's home schools. In cases where a student's SOP enrollment is also the student's initial enrollment in a Virginia school, SOP administrative assistants request a STI from the VDOE.

All discharge correspondence with home schools is to include the STI numbers of students.

- J. Virginia Assessment Program** - All SOP's will follow the SOL testing window as determined by VDOE and the SOP Division Director of Testing (DDOT). Students participating in an alternate or alternative assessment shall continue to do so while enrolled in an SOP. The VDOE will assemble scoring teams, during the appropriate window for these students.

VI. Record Keeping and Confidentiality of Information

- A. Student Enrollment** - All SOPs are expected to maintain student enrollment and attendance information according to the requirements specified by the VDOE in the Student Information System (SIS). This includes daily data entry so that school rosters are accurate and up to date. (See SIS Testing Manual for further instruction.)

B. Education Records/Student Files - An individualized student file is to be maintained for each student enrolled in an SOP. All records are maintained in a confidential manner in accordance with the Guidelines for the Management of the Student's Scholastic Record in the Public Schools of Virginia (May 2004), the FERPA, the *No Child Left Behind Act of 2001*, and the *National Defense Authorization Act* for Fiscal Year 2002.

In accordance with the expanded FERPA definition of “education record,” student files include all electronic exchanges that contain personally identifiable information between school personnel and parent(s)/guardian(s) regarding matters associated with the student’s educational program. These matters shall include electronic exchanges pertaining to IEP meetings, disciplinary actions, or service delivery.

1. Parent/Guardian and Eligible Student Rights

The SOPs ensure parents and eligible students their rights regarding inspection and review of student files.

The Family Educational Rights and Privacy Act (FERPA) defines “parent” as a parent of a student and includes a natural parent, a guardian, custodial stepparents, or an individual acting as a parent in the absence of a parent or guardian. As specified by section 20-124.6 of the *Code of Virginia* and FERPA, the SOPs give full rights to either parent unless the institution has been provided a copy of a judicial order or decree or other legally binding documentation revoking these rights.

A stepparent has the same right under FERPA as a natural parent, provided that the stepparent is present on a day-to-day basis with the natural parent and child, and the other parent is absent from the home. Conversely, a stepparent who is not present on a day-to-day basis in the home of the child does not have rights under FERPA with respect to that child’s student file.

“Eligible student” means a student who has reached 18 years of age (age of majority) or is attending an institution of postsecondary education. Parents lose their FERPA rights when their child turns 18. A parent of a child with a disability who is 18 may retain his/her rights provided that the child has been determined to be legally incompetent or legally incapacitated.

The SOPs distribute the Notification of Rights Regarding Student Files annually to parents and eligible students, alerting them to their rights under FERPA. Interpreter services and audiotapes of the annual notice are available to those who are unable to access printed English.

2. Inspection and Review

The SOPs provide the parent and eligible student the following access rights:

- a. the right to inspect and review any education records relating to the student that are collected, maintained, or used. When a record pertains to more than one student, the parent has the right to inspect and review or be informed only on that part of the record that relates to his/her child. An eligible student also has a right to inspect and review his/her student file. The SOPs comply with a request to inspect or review a student's file within a reasonable period of time.
- b. the right to inspect or review the student's file without unnecessary delay and before any meeting regarding an IEP or any hearing or resolution session. It also allows the parent to have a representative inspect and review the records.
- c. the right to (1) a hearing to challenge the content of a record to ensure it is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, (2) an opportunity to correct or delete inaccurate, misleading, or otherwise inappropriate data, and (3) insert a written explanation regarding the contents of the record.
- d. the right to annual public notice of parent rights and designated categories of directory information and a reasonable time period (not to exceed 45 days) during which to refuse to allow the release of directory information without prior consent.
- e. the right to a copy of the student file if circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review it. In addition, the parent is entitled to receive copies, upon request, of records that are disclosed to another school that his/her child is attending or plans to attend.
- f. the right to a response to reasonable requests for explanations and interpretations of the record. In responding, the SOP arranges to meet with the parent or eligible student at a mutually convenient time. The teacher and education leader or designees are to be available to answer any questions or explain information included.

3. Disclosure

Before personally identifiable information is disclosed from a student's file, the parent or eligible student shall provide a signed and dated written consent. Notably, signed and dated written consent may include a record and signature in electronic form. The written consent must specify the records to be disclosed, the purpose of the disclosure, and the party to whom disclosure may be made. However, there are parties to whom data may be disclosed without prior written consent of the parent or eligible student. It is the responsibility of the SOPs to

ensure that no personally identifiable information is disclosed to any parties without prior written consent other than those authorized by FERPA. The disclosure must meet one or more conditions for an SOP to disclose personally identifiable information from a student file without the consent of a parent or eligible student.

The SOPs maintain a record of each request for access to and each disclosure of personally identifiable information from student files. This record shall be maintained in the individual student's file as long as the files are maintained. Those individuals with legitimate educational interest in the content of a student's file are not required to sign the Record Data Disclosure Form.

4. Fees

The SOPs may charge a reasonable copy fee unless imposition of such a charge would prevent a parent from exercising his/her right to inspect and review his/her child's student file. The fee may include costs associated with reproduction, secretarial or administrative time, and postage. The SOPs may not charge a fee to search for and retrieve information or for a copy of the current IEP.

5. Amendment

If the parent or eligible student believes the student file contains information that is inaccurate, misleading, or in violation of the student's rights of privacy, the parent or eligible student may ask the SOP to amend the record. The SOP shall decide whether to amend the information as requested within a reasonable time after the request is received. If the SOP decides not to amend the information as requested, it shall inform the parent or eligible student of its decision and of his/her right to a hearing.

6. Hearings

Upon parental request, the SOP shall provide an opportunity for a hearing, in accordance with the Virginia special education hearing officer system, to challenge information in the student file to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. All hearings shall be conducted in accordance with FERPA procedures. If, as a result of the hearing, the SOP decides that the information in the student file is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information and so inform the parent in writing. If, as a result of the hearing, the SOP decides that the

information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parent of the right to place a statement in the student file, commenting on the information or stating why he/she disagrees with the SOP's decision. Any explanation placed in the files shall be maintained by the SOP as part of the records of the student as long as the student file is maintained. And, should the records of the student be disclosed by the SOP, the explanation shall also be disclosed to the party.

7. Consent

Parental consent shall be obtained before personally identifiable information is disclosed to anyone other than officials of the SOP unless the information is contained in the student file and the disclosure is authorized under the FERPA. Parental consent is not required, however, before personally identifiable information is disclosed to officials of the SOPs collecting, maintaining, or using personally identifiable information, except that:

- a. parental consent or the consent of a student who has reached the age of majority shall be obtained before personally identifiable information is released to officials of any agency or institution providing or paying for transition services; or
- b. if a student is enrolled or is going to enroll in a private school that is not located in the LEA where the parent resides, parental consent shall be obtained before any personally identifiable information about the student is released between officials in the LEA where the private school is located and LEA officials where the parent resides.

8. Safeguards

There are specific safeguards to protect the confidentiality of education records of children with disabilities. Each SOP shall:

- a. protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages;
- b. ensure that electronic communication via e-mail or facsimiles regarding any matter associated with the student, including matters related to IEP meetings, disciplinary actions, or service delivery, be part of the student's file;
- c. designate one official to assume responsibility for ensuring the confidentiality of any personally identifiable information;
- d. provide training or instruction on the management of student files and procedures for assuring confidentiality of information to all persons collecting, maintaining, or using personally identifiable information; and

- e. maintain for public inspection a current listing of the names and positions of SOP employees who may have access to personally identifiable information.

9. Destruction

The Records Retention and Disposition Schedule (General Schedule No. 21) of The Library of Virginia addresses public school records for all public school systems in the Commonwealth.

When students in SOPs are withdrawn, documentation, which may include assessments, behavioral reports, grades, course work, test scores, and IEP's, is transferred to the LEA. Because the SOPs' student files are not cumulative records containing long-term documentation, they may be destroyed five years after students are withdrawn.

In keeping with The Library of Virginia directives, destruction of confidential or privacy-protected records is done by shredding or pulping. "Deletion" of confidential or privacy-protected records in computer files or other electronic storage media is not acceptable. Electronic records are either "wiped" clean or the storage media is physically destroyed.

10. Electronic Mail and Signature

If the SOP makes the option available, the parent of a child with a disability may elect to receive prior written notice, the procedural safeguards notice, and the notice of a request for due process by electronic mail. However, posting of the procedural safeguards on the SOP Web site does not satisfy the requirements related to providing parents with prior written notice.

If an electronically filed document contains an electronic signature, the electronic signature has the legal effect and enforceability of an original signature. An electronic signature is an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

11. Audio and Video Recording of Meetings

The SOP shall permit the use of recording devices at meetings convened to determine a student's eligibility; to develop, review, or revise the student's IEP; and to review discipline matters. It is the responsibility of the parent to inform the SOP before the meeting in writing, unless the parent cannot write in English, of his/her intent to record the meeting. If the parent does not inform the SOP, the parent

must provide the SOP with a copy of the recording. The parent shall provide the equipment and materials for recording. If the SOP records meetings or receives a copy of a recording from the parent(s), the recording becomes a part of the child's student's file.

The SOP may have policies that prohibit, limit, or otherwise regulate the use of recording devices at meetings other than those meetings identified in the above paragraph. These policies shall:

- a. stipulate that the recordings become part of the student's file;
- b. ensure that the policy is uniformly applied; and
- c. if the policy prohibits the use of the devices, provide for exceptions if they are necessary to ensure that the parent(s) understands the IEP and the special education process or to implement other guaranteed parental rights.

C. Inventories - Current inventories of materials and equipment must be maintained according to the source of funding. Software licenses should also be a part of the inventory to assure current and active licenses.

D. Reports - required documentation

1. **The SOP**

- a. Part B Flow-Through Application for mental health and hospital programs, if applicable
- b. Site inventories
- c. End of year SIS report
- d. Office of Civil Rights site data at designated sites
- e. The SOP Student Information System (SIS) Monthly QA Report

2. **The VDOE**

- a. December 1 Special Education Count
- b. Title I Count and application
- c. Office of Civil Rights final submission

Appendix I

Children's Hospital of Richmond

Revisions to the State Regulations Governing Special Education have changed the responsibilities of Local Education Agencies (LEA) in regards to students placed in certain State Operated Programs (SOP). One such placement does exist within the Children's Hospital of Richmond.

The new regulations specify that;

H. Each state-operated program shall ensure that the requirements in this chapter are applied to children with disabilities, aged 2 to 21, inclusive, in that institution. (22.1-7 of the *Code of Virginia*)

1. For children with disabilities who are placed in a state-operated program as a long-term placement, the local educational agency of the parent's residence remains responsible for ensuring that the child receives a free appropriate public education.

2. The state-operated program shall ensure that the local educational agency of the parent's residence is advised of the child's admission, status, and meetings associated with the child receiving a free appropriate public education.

Children's Hospital of Richmond/Brook Road Campus has been defined as a long-term nursing care facility and meets the definition as stated in these regulations;

3. If placed in a nursing facility, a long stay hospital, or an intermediate care facility for people with intellectual disabilities under funding from the Virginia Department of Medical Assistance Services, the child is a resident of the division where the parent(s) resides.

Long term placement has been defined: "Long-term placement" if used in reference to state-operated programs as outlined in 8VAC20-81-30 H means those hospital placements that are not expected to change in status or condition because of the child's medical needs.

Therefore, placements into the Richmond Hospital Education Program (RHEP) at Children's Hospital of Richmond/Brook Road Campus now require the Local Education Agency to be responsible for a Free and Appropriate Public Education. This indicates that the LEA is now responsible for holding and attending all Individualized Educational Program meetings. The LEA is responsible for contacting all parties related to these meetings, setting up and coordinating them, and making any and all decisions regarding placement, services, and instruction.

Teachers and staff from the RHEP will be available to attend meetings coordinated and held by the LEA and provide goals and objectives for those students placed within the RHEP, if the LEA determines that placement in the RHEP represents the Least Restrictive Environment (LRE). The RHEP, as mandated by the new regulations, will make the LEA

aware of the child's admission, medical status, and any medical or other changes in status that might affect the child receiving a free appropriate public education (FAPE).

With this change, the RHEP will no longer maintain or store cumulative folders within the program. The RHEP will receive and maintain a copy of the current IEP that has been developed by the LEA in cooperation with representatives from the RHEP for students placed within the program.

If the LEA determines that the LRE is the RHEP at Children's Hospital/Brook Road Campus; instruction, related services and other costs associated with the placement will be covered by the RHEP as it functions as an SOP.

For those students residing at Children's Hospital/Brook Road Campus, but being placed outside the RHEP as the LRE, any associated costs related to providing FAPE for these students outside the SOP will fall to the LEA. These include transportation costs, nursing support, and bus aides in order to transport students out of Children's Hospital and provide instruction and services in a local school division.

In regards to State Testing under the Virginia Assessment System; Federal and state regulations governing special education require that the VDOE ensure that the LEA include all children with disabilities in the state's accountability system (8 VAC 20-81-20 #4). Federal and state regulations governing special education require that the LEA address the child's participation in the state's accountability system in each child's IEP (8 VAC 20-81-110 G.6).

As a provision of FAPE, the LEA is responsible for providing any and all needed materials, forms, and tests to be administered to students in long term placements at the RHEP. The RHEP will administer any and all tests to students in long term placements and ship completed tests, forms, and binders back to the LEA. The LEA will be responsible for submitting the completed tests, forms, and/or binders through their Office of Assessment and Accountability for scoring and reporting. This will include registering students for testing, shipping any and all materials to appropriate testing locations as directed by the VDOE Office of Student Assessment & School Improvement, receiving any score reports, and providing copies to students and/or parents.

As with cumulative folders, copies of completed binders, test reports, and other materials should be maintained by the LEA in accordance with Revisions to the State Regulations Governing Special Education. The RHEP does not maintain assessment score reports, binders, or other materials as a part of any long term placed students' special education cumulative folders. Cumulative folders are maintained by the LEA in accordance with the State Regulations Governing Special Education.